



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION**

ROSE B. MOUMOUNI, §
Plaintiff, §
§
vs. § Civil Action No.: 0:22-1697-MGL
§
CHESTER COUNTY SCHOOL DISTRICT, §
Defendant. §

**ORDER ADOPTING THE RULE 12 REPORT,
VACATING THE RULE 41(B) REPORT,
AND DENYING DEFENDANT'S MOTION TO DISMISS**

Plaintiff Rose B. Moumouni (Moumouni), proceeding pro se, filed a complaint against Defendants Wendall Sumter, Daniel Pfeiffer, Dana Colter-Williams, Dr. Jeanie Ligon, Dr. Antwon Sutton, and Demorrious Robinson (collectively, the Individual Defendants) and Defendant Chester County School District (CCSD), alleging violations of Title VII of the Civil Rights Act of 1964, as amended (Title VII), 42 U.S.C. § 2000e, *et seq.* and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, *et seq.* The Court previously dismissed the Individual Defendants with prejudice.

This matter is before the Court for review of the Report and Recommendation of the United States Magistrate Judge recommending the Court dismiss this action in accordance with Federal Rule of Civil Procedure 41(b) (Rule 41(b) Report) and the Report and Recommendation recommending the Court deny CCSD's motion to dismiss (Rule 12 Report). The Reports were

made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Reports to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Rule 12 Report on September 19, 2022. Neither party filed any objection. On October 7, 2022, the Rule 12 Report sent to Moumouni was returned as undeliverable. That same day, the Magistrate Judge filed the Rule 41(b) Report. On October 27, 2022, Moumouni objected to the Rule 41(b) Report.

The Rule 41(b) stated that if Moumouni notified the Court within the time for filing objections that she wishes to continue with the case and provides a current address, the Rule 41(b) Report should be vacated. Although Moumouni's objections arrived three days late, and the Court could dismiss this case for failure to prosecute, the Court will refrain from doing so because Moumouni is pro se.

Moumouni states that she continues to reside at the address on file and has received the other mailings in this case. The returned mail, then, appears to have been in error. The Court will thus vacate the Rule 41(b) Report. It will turn now to the Rule 12 Report.

As the Court previously noted, neither party filed objections to the Rule 12 Report.

"[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in

order to accept the recommendation.”” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845–46 (4th Cir. 1985).

After a thorough review of the Rule 41(b) Report, the Rule 12 Report, and the record in this case under the standard set forth above, the Court vacates the Rule 41(b) Report, adopts the Rule 12 Report, and incorporates the Rule 12 Report herein. Therefore, it is the judgment of the Court the CCSD’s motion to dismiss is **DENIED**. The Clerk’s Office is directed to mail another copy of the Rule 12 Report to Moumouni. This case is referred back to the Magistrate Judge.

IT IS SO ORDERED.

Signed this 8th day of November 2022, in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.